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THE NEW YORK TIMES

24 January 1985

Letters

The F.C.C.'s Duty to Take Action Against ABC

To the Editor:

Your Jan. 16 editorial "Newsmakers Can't Be News Censors," counseling the F.C.C. to dismiss our 45-page news distortion/news suppression/fairness doctrine complaint against ABC, states: "Whatever the merits of F.C.C. regulation of 'fairness' in broadcasting, news organizations should not have to answer to government for the way they report on government. . . . Constitutional and legal safeguards are designed to protect the private sector from government, not vice versa."

While the second half of that statement reveals an unexpected appreciation on your part of the free-market principles underlying our theory of government — an appreciation which we applaud and hope to see extended to other areas of the law besides those in which The Times has an obvious interest — the first displays a complete misunderstanding of the fundamentally public nature of the broadcasting medium and the F.C.C.'s concomitant broad statutory authority to ensure that the public's legitimate First Amendment viewing rights are fully protected.

The Supreme Court said it best 15

years ago in *Red Lion Broadcasting Company v. F.C.C.*: "Every [broadcast] licensee who is fortunate in obtaining a license is mandated to operate in the public interest and has assumed the obligation of presenting important public questions fairly and without bias."

In other words, broadcast licenses do not confer private ownership of designated frequencies. The airwaves are a public resource. Accordingly, the Government agency that licenses broadcasters to operate may revoke those licenses if it can be shown that news distortion, news suppression or the private censorship of contrasting points of view with which the licensee disagrees has taken place.

This remains true regardless of who brings the licensee's misconduct to the F.C.C.'s attention through the filing of a formal complaint. Private citizens, private groups (such as the American Legal Foundation) and even other Government agencies (such as the C.I.A.) are all legally entitled to alert the commission to instances of viewer deception by a broadcaster. To quote the Court again: "It is the right of the viewers and listeners, not the right of the

broadcasters, which is paramount" in these proceedings.

Unfortunately, ABC World News Tonight deliberately ignored and thereby violated the rights of its viewing audience last September when it broadcast a series of inaccurate, slanted and deceptive "investigative" reports about the C.I.A. Therefore, if the F.C.C. remains faithful to its mandate, it has no choice but to act upon our complaint by taking all appropriate action against ABC so that such violations of the public's trust do not recur.

Lastly, you are only partially correct in asserting that the American Legal Foundation "specializes in putting broadcasters and publishers in the toils of the law." Actually, your readers will be reassured to know that A.L.F. specializes in putting broadcasters and publishers in the toils of the law only when they behave irresponsibly or otherwise ignore their legal obligation to disseminate fair and accurate information to the public.

MICHAEL P. McDONALD

JOHN H. MARTIN

Washington, Jan. 17, 1985

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